

**REMARKS**

At the time of the Office Action dated August 12, 2005, claims 1-10 were pending and rejected in this application. Claims 1, 6-7, and 10 have been amended, and new claims 11-14 have been added. Applicants submit that the present Amendment does not generate any new matter issue.

**CLAIMS 1-10 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON HOLMBERG ET AL., U.S. PATENT NO. 6,247,141 (HEREINAFTER HOLMBERG), IN VIEW OF RIZVI ET AL., U.S. PATENT NO. 6,490,610 (HEREINAFTER RIZVI)**

On pages 2-5 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Holmberg in view of Rizvi to arrive at the claimed invention. This rejection is respectfully traversed.

Initially, Applicants note that independent claims 1 and 7 have been amended to clarify that the step of sending a request from a first application server to a second application server occurs while the first application server fails to access a database. This feature is neither taught nor suggested by Holmberg and Rizvi, either alone or in combination.

Holmberg teaches forwarding a queue in a protocol stack 215 of a primary server S 101 via a backup path 209 to a protocol stack 215' of a backup server S' 107 (see column 6, lines 10-18). However, this occurs only when the primary server S 101 is operational. When the primary

server S 101 fails, the backup server S' 107 takes over execution (see column 6, lines 19-43).

The "failure" contemplated by Holmberg is a "Primary Server Crash" (see column 7, lines 20-35); and thus, the primary server S 101 of Holmberg is incapable of forwarding data to the backup server S' 107 after a failure has been recognized, as recited in the claims, since the primary server S 101 has crashed.

The secondary reference of Rizvi does not cure the above-identified deficiency of Holmberg. Instead, when a failure occurs, Rizvi uses a methodology similar to the methodology taught by Holmberg. Rizvi teaches that a client driver interface 204 detects the failure of a database session 218 (column 4, lines 33-51). Upon the failure being detected, an "automatic failover" occurs (column 4, lines 52-53), in which "a new database session [is created] by reconnecting the client to an active database server" (column 3, lines 33-53; column 4, line 66 though column 5, line 3).

In both Holmberg and Rizvi a new primary server (Holmberg) or new database server (Rizvi) is selected in place of the original server, and after failure, the client communicates with the new server ("[t]he backup server S' 107 takes over execution ... and starts receiving requests from the clients C;" column 6, lines 41-43 of Holmberg)("client driver interface 204 automatically connects to database server 210 creating database session 220;" column 5, lines 4-11). In contrast, as recited in claim 5, the response is sent from the output queue (27) of the first application server (21) to the application client (15). In this manner, a connection between the

application client and the first application server may be maintained without the application client being aware of the loss of connection between the first application server and the database.

Therefore, even if Holmberg were modified in view of Rizvi, the claimed invention would not result. Applicants, therefore, respectfully submit that the imposed rejection of claims 1-10 under 35 U.S.C. § 103 for obviousness based upon Holmberg in view of Rizvi is not viable and, hence, solicit withdrawal thereof. Newly added claims 11-14 are patentable over the applied prior art in the same manner that claims 1-10 are patentable over the applied prior art.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Application No. 10/042,799

Filed: 1/9/2002

Attorney Docket No.: DE920000043US1 (7161-183U)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 3, 2005

Respectfully submitted,



---

Scott D. Paul  
Registration No. 42,984  
Steven M. Greenberg  
Registration No. 44,725  
Christopher & Weisberg, P.A.  
200 E. Las Olas Blvd., Suite 2040  
Fort Lauderdale, FL 33301  
Tel: (954) 828-1488  
Facsimile: (954) 828-9122

42829